

FILED

JUL 31 2008

RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

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9 Attorneys for Plaintiff

10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA

12 SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA,) CR No.: 3-08-70181 MAG

15 Plaintiff,)

16 v.)

17 JAMES MICHAEL BURGE,)

18 Defendant.)

**STIPULATION AND [PROPOSED]
ORDER EXCLUDING TIME**

21 On July 10, 2008, the parties in this case appeared before the Court for a preliminary hearing.

22 The parties requested and the Court agreed to continue the preliminary hearing to August 12,
23 2008, so that the parties could explore pre-indictment resolution of this case. The parties further
24 stipulated that pursuant to Federal Rule of Criminal Procedure (FRCP) 5.1(d), the time limits set
25 forth in FRCP 5.1(c) be excluded from July 10, 2008, to and including August 12, 2008. The
26 parties agree that – taking into account the public interest in prompt disposition of criminal cases
27 good cause exists for this extension. Defendant also agrees to exclude for this period of time any
28 time limits applicable under Title 18, United States Code, Section 3161. This continuance is the

1 reasonable time necessary for continuity of defense counsel and effective preparation of defense
2 counsel, taking into account the exercise of due diligence. See 18 U.S.C. § 3161(h)(8)(B)(iv).

3 The parties also agree that the ends of justice served by granting such a continuance outweigh the
4 best interests of the public and the defendant in a speedy trial. See 18 U.S.C. § 3161(h)(8)(A).

5 SO STIPULATED:

6 JOSEPH P. RUSSONIELLO
7 United States Attorney

8 DATED: July 30, 2008

9 /s/ Owen Martikan
10 OWEN P. MARTIKAN
11 Assistant United States Attorney

12 DATED: July 30, 2008

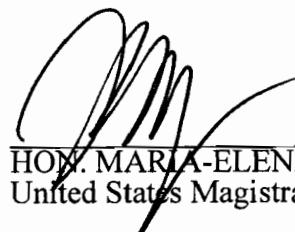
13 /s/
14 PETER GOODMAN
15 Attorney for James Michael Burge

16 [PROPOSED] ORDER

17 For the reasons stated above, the Court finds that an exclusion of time from July, 10, 2008, to
18 and including August 12, 2008, is warranted and that the ends of justice served by the
19 continuance outweigh the best interests of the public and the defendant in a speedy trial. See 18
20 U.S.C. §3161 (h)(8)(A); FRCP 5.1(d). The failure to grant the requested continuance would
21 deny Mr. Burge continuity of counsel and would deny defense counsel the reasonable time
22 necessary for effective preparation, taking into account the exercise of due diligence, and would
23 result in a miscarriage of justice. See 18 U.S.C. §3161(h)(8)(B)(iv).

24 SO ORDERED.

25 DATED: 7/31/08

26 
27 HON. MARIA-ELENA JAMES
28 United States Magistrate Judge